

## REMARKS

The applicants appreciate the Examiner's thorough examination of the application and requests reexamination and reconsideration of the application in view of the preceding amendments and the following remarks.

On December 23, 2004, the applicants submitted to the U.S. Patent and Trademark Office a Request to Withdraw the Finality of the November 16, 2004 Office Action. As of the date of this submission, applicants have not received a reply to this Request. However, during a teleconference with Examiner Horton on December 23, 2004, the Examiner suggested that applicants could file a Response after final even if the U.S. Patent and Trademark Office has not yet replied to the applicant's request dated December 23, 2004. As such, applicants herein submit a reply after final even though applicants assert, for the reasons set forth in the request dated December 23, 2004, that the Office Action dated November 16, 2004 clearly should not have been a final Office Action. For example, the Examiner has not yet examined previously added claim 21.

The applicants appreciate and acknowledge the Examiner's indication that claims 6, 8 and 19-20 would be allowable if rewritten in independent form. However, in light of the preceding amendments and the following remarks, the applicants believe that all of the claims of the subject application are allowable. The applicant's claimed building construction relates to a truly novel way of constructing a building with many floors. The art cited against the applicants relates to an elevator suspended from a beam.

The Examiner rejects claims 1-3, 5, 9-10, 12, 14-16 and 18 under 35 USC § 102(b) as being anticipated by U.S. Patent No. 5,634,528 to *Watts et al.* and claims 7 and 17 under 35 USC § 103(a) as being unpatentable over *Watts*. Applicants have amended independent claims 1 and

14 as well as dependent claims 5-11, 15, and 17-20. In particular, the applicants have reversed the amendments made to claims 1, 5-11, 14-15, and 17-20 in the Response dated September 20, 2004 such that the previously recited "support member" has been changed back to a "support beam". Also, applicants have amended claims 1 and 14 to better define the invention.

The subject invention results from the realization that a new and beneficial building construction and method which can make use of the qualities of composite materials to provide lighter, stronger structures can be achieved by using a core support structure such as one or more columns for sustaining a support beam, linear or curved, to anchor one or more tension members from which are suspended one or more enclosure cells which also can be made of composite materials.

*Watts* is directed to a mobile workstation for maintaining an envelope about a portion of a bridge, motive means for positioning the envelope from time to time and a scaffolding apparatus for supporting workers and equipment within the envelope.

*Watts* fails to teach or disclose an enclosure cell statically supported by a support member itself supported by a support structure as claimed by the applicants as a building construction. In *Watts*, "[t]he cages 80 are supported to move vertically on cables 83 which in turn are connected to move horizontally across beams 84". Col. 4, line 29-31 (emphasis added). Additionally, *Watts* discloses "horizontal movement with a track and wheel means erected over a beam 84". Col. 4, lines 37-38 of *Watts* (emphasis added). Thus, *Watts* discloses not a building construction but an elevator used in the process of constructing a building.

Moreover, *Watts* does not teach, disclose or suggest at least one tension member anchored to a support beam borne by a support structure. In fact, *Watts* teaches away from such

an anchored construction because it teaches that cages 80 move vertically and horizontally across beam 84 as described above.

Independent claim 1 of the subject application as amended is directed to a building construction using tensional support members comprising a support structure for bearing a compressive load; a support beam borne by said structure, at least one enclosure cell, and at least one tension member anchored to said support beam statically suspending the enclosure cell from the support beam .

For at least these reasons, independent claims 1 and 14 and dependent claims 2, 3, 5, 9-10, 12 and 15-18 are patentable over *Watts*.


The Examiner also rejects claims 11 and 13 under 35 USC § 103(a) as being unpatentable over *Watts* in view of U.S. Patent No. 6,170,105 to *Doyle et al.* Since independent claim 1 is patentable over *Watts* for at least the reasons set forth above, dependent claims 11 and 13 are also patentable over *Watts* for at least those reasons. Accordingly, claims 11 and 13 are patentable over *Watts* in view of *Doyle*.

Claim 21, which was previously added, is also clearly patentable since it relates to a building that includes a support structure for bearing a compressive load; a support member borne by said structure; a first enclosure cell; a second enclosure cell; and tension members suspending the first and second enclosure cells from the support member adjacent each other to form a building wherein the enclosure cells constitute different levels of the building. *Watts* clearly does not teach, disclose or suggest a building that includes first and second enclosure cells and tension members suspending the first and second enclosure cells from a support member adjacent each other to form a building wherein the enclosure cells constitute different levels of the building. As such, new claim 21 is clearly patentable over the prior art.

Each of the Examiner's rejections has been addressed or traversed. Accordingly, it is respectfully submitted that the application is in condition for allowance. Early and favorable action is respectfully requested.

If for any reason this Response is found to be incomplete, or if at any time it appears that a telephone conference with counsel would help advance prosecution, please telephone the undersigned or his associates, collect in Waltham, Massachusetts, at (781) 890-5678.

Respectfully submitted,

  
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